

**COMBINED DECLARATION AND POWER OF ATTORNEY**  
**FOR PATENT APPLICATION**

Attorney Docket No: BANKS 04.01

First Named Inventor: AKINS ET AL.

Complete if known: Serial No: 10/586,436 Filing Date: July 17, 2006

Group Art Unit: \_\_\_\_\_ Examiner: \_\_\_\_\_

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled **WORK CAPACITIES TESTING APPARATUS AND METHOD**, the specification of which is attached hereto.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, S. 1.56(a).

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate or of any PCT international application having a filing date before that of the application on which priority is claimed:

<u>Prior Foreign Application(s):</u>			Certified Copy	
			<u>Priority Claimed</u>	<u>Attached</u>
(Number)	(Country)	(Month/Day/Year Filed)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Number)	(Country)	(Month/Day/Year Filed)	<input type="checkbox"/> Yes	<input type="checkbox"/> No

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below:

Application No:  
60/536,822

Filing Date:  
January 15, 2004

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

<u>PCT/US2005/001183</u>	<u>January 14, 2005</u>	
<u>Parent Patent Application No.</u>	<u>Filing Date</u>	<u>Patent Number</u>

**POWER OF ATTORNEY:** As a named inventor, I hereby appoint the attorney(s) and/or agent(s) associated with the below listed Customer Number to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

**43755**

Send correspondence to and telephone calls:

**Dale F. Regelman, Reg. No. 45,625  
Law Office of Dale F. Regelman, P.C.  
4231 S. Fremont Avenue  
Tucson, AZ 85714  
Telephone No. (520) 741-7636**

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of First inventor: **Robert Akins**

First Inventor's signature  Date 1-17-08  
Residence: 4263 W. Milton Road, Tucson, Arizona 85746  
Citizenship: United States of America  
Post Office Address: same as residence

Full name of Second inventor: **John Banks**

Second Inventor's signature \_\_\_\_\_ Date \_\_\_\_\_  
Residence: 9430 S. Watson Gulch Road, Littleton, Colorado 80127  
Citizenship: United States of America  
Post Office Address: same as residence

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Full name of First inventor: Robert Akins

First Inventor's signature \_\_\_\_\_ Date \_\_\_\_\_  
Residence: 4263 W. Milton Road, Tucson, Arizona 85746  
Citizenship: United States of America  
Post Office Address: same as residence

Full name of Second inventor: John Banks

Second Inventor's signature  Date 1-17-08  
Residence: 9430 S. Watson Gulch Road, Littleton, Colorado 80127  
Citizenship: United States of America  
Post Office Address: same as residence

Full name of Third inventor: **Mark Means**

Third Inventor's signature Mark Means Date 1-20-08

Residence: 6811 E. Paseo San Andres, Tucson, Arizona 85710

Citizenship: United States of America

Post Office Address: same as residence

## IMPORTANT NOTICE RE DUTY OF CANDOR AND GOOD FAITH

The Duty of Disclosure requirements of Section 1.56(a), of Title 37 of the Code of Federal Regulations are as follows:

A duty of candor and good faith toward the Patent and Trademark Office rests on the inventor, on each attorney or agent who prepares or prosecutes the application and on every other individual who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application. All such individuals have a duty to disclose to the Office information they are aware of which is material to the examination of the application. Such information is material where there is a substantial likelihood that a reasonable examiner would consider it important in deciding whether to allow the application to issue as a patent. The duty is commensurate with the degree of involvement in the preparation or prosecution of the application.

By virtue of this regulation each inventor executing the Declaration for the filing of a Patent Application acknowledges his duty to disclose information of which he is aware and which may be material to the examination of the application.

Inherent in this is the duty to disclose any knowledge or belief that the invention:

- (a) was ever known or used in the United States of America before his invention thereof;
- (b) was patented or described in any printed publication in any country before his invention thereof or more than one year prior to the actual filing date of the U.S. patent application;
- (c) was in public use or on sale in the United States of America more than one year prior to the actual filing date of the U.S. patent application; or
- (d) has been patented or made the subject of inventor's certificate issued before the actual filing date of the U.S. patent application in any country foreign to the United States of America on an application filed by him or his legal representatives or assigns more than twelve months before the actual filing date in the United States.

NOTE: The "Information" concerned includes, but is not limited to, all published applications and patents, including applicant's and assignee's own, U.S. or foreign applications and patents, as well as any other pertinent prior art known, or which becomes known, to the inventor or his representatives. Where English language equivalents of foreign language documents are known, they should be identified and, when possible, copies supplied. Failure to comply with this requirement may result in a patent issued on the application being held invalid even if the known prior art which is not supplied is material to only one claim of that patent.